

### **REMARKS**

In the Office action mailed from the United States Patent and Trademark Office on January 4, 2007, claims 1-36 were allowed and claims 37 and 38 were rejected. Applicants hereby cancel claim 38, leaving claims 1-37 currently pending. Claim 21 has been amended to recite a "system comprising" rather than a "method including the steps of." Claim 37 has been amended as indicated below to more clearly define the patentable subject matter. Applicants submit that each of the present amendments is fully supported by the original written description, claims, and figures.

#### **35 U.S.C. § 101**

Claim 37 was rejected under 35 U.S.C. § 101, as allegedly being directed to non-statutory subject matter. According to the Office Action, the term "computer-readable medium" as defined in the specification encompasses non-statutory subject matter such as intangible signals. Claim 37 is hereby amended to recite "tangible computer-readable medium." Claim 37 has also been amended to recite "computer programmable instructions on a tangible computer readable disk"

Applicants submit that claim 37, as amended, defines statutory subject matter and request that the rejection under 35 U.S.C. § 101 be reconsidered and withdrawn.

#### **35 U.S.C. § 112, 1<sup>st</sup> ¶**

Claim 37 was also rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. According to the Office Action, the recitation of "programmable instructions comprising: means for providing for accessing the first image .... means for providing for accessing the second image [and] means for providing for determining" is not properly enabled.

Claim 37 is hereby amended so that each instance of "means for providing" has been replaced with "step for providing."

Applicants submit that the present amendment obviates the enablement rejection, and request that claim 37 be reconsidered and allowed.

Applicants do not believe that any extension of time is required to enter the current paper, if however, and any extension of time is required, Applicants hereby petition for any necessary extension of time and authorize the Commissioner of Patents to charge any required fee to Applicants' Deposit Account No. 07-0868.

If the Examiner believes that anything further is needed to place the application in condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at (518) 387-6304.

Respectfully submitted,

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